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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,600	12/29/2000	Samuel N. Zellner	BELL-0038/99164	1291

23377 7590 01/21/2004
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EXAMINER

TAYLOR, BARRY W

ART UNIT PAPER NUMBER

2643

DATE MAILED: 01/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/752,600

Applicant(s)

ZELLNER ET AL.

Examiner

Barry W Taylor

Art Unit

2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

1. Claims 1 and 4-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masri et al (6,594,344 hereinafter Masri) in view Eidson (6,370,159).

Regarding claim 13. Masri teaches an auto latency test tool wherein latency is measured by establishing a call between a first and second device, and measuring a latency between a signal originating at the first device and the signal as it arrives at the second device (entire disclosure). Masri uses monitoring device (108 figure 1, 109 figure 2, 212 and 214 figures 3-4) and test probes (110 figures 1-4) wherein the test

Art Unit: 2643

probes accurately measures the phase difference between the originating signal and received signal (columns 3-4). Masri shows several embodiments wherein the call generator and monitoring device are located within computer 116 (see figure 1). Masri figure 2 even reveals that the oscilloscope may be directly connected to monitoring device. Masri figure 3 shows the telephone device 102 and 104 having monitoring device 212 and 214 associated with them. Masri discloses other arrangements are possible. For example, the monitoring device and call generator may be located outside of a computer or the functionality of the telephony and monitoring devices may be incorporated into one device or the telephony devices may be implemented as telephones instead of telephony cards (col. 4 line 54 – col. 5 line 11).

According to Applicant (see REMARKS section of Amendment "C", starting at second full paragraph on page 9 and continuing to page 10, paper number 10, dated 10/30/03) wherein Applicant's contend that Masri uses a single oscilloscope to test the telecommunication network and by using a single oscilloscope located at a single location, Masri cannot be said to operate in an environment where the recording of values used for testing is accomplished remotely.

First of all, independent claim 13 contains no such language that requires testing at remote location or locations. Instead, independent claim 13 only uses signal generator and first clock wherein first clock provides first signal to network and a second clock having a signal receiver associated with it to receive a second signal from network wherein the only requirement is that the first and second clock operate from a

Art Unit: 2643

substantially similar reference. Applicant's independent claim 13 does not even suggest that the first and second devices are communicating to one another but simply operate with a substantially similar reference wherein first device sends first signal to network and second device receives second signal from network. Furthermore, Applicant's independent claim 13 does not even suggest that first and second signals are related in any way, shape or form.

However, in order to advance prosecution, Eidson teaches a method and apparatus for accurately distributing traceable time values to a set of nodes in a system wherein the nodes may be distributed nodes or cards connected to a backplane (abstract). Eidson invention uses a synchronization protocol (see figures 1, 4-5) to provide the basis for the communication protocols between master and slave nodes (col. 3 line 43 – col. 8 line 29). Eidson shows first clock with signal generator (col. 2 lines 12-13). Eidson shows the first clock (18 figures 1 and 3) having signal generator (see 16 figures 1 and 3) and second clock (see 20-22 figures 1 and 2) having signal receiver (see 164 figure 2) that receives signals from communication link 12. Eidson further shows first and second clocking devices operate from a substantially similar reference (see figures 1-3 wherein master clock uses traceable source 16 and slave clock uses signal receiver 164 to obtain timing data from the communication link 12 for synchronization of slave time value in the local clock 162 using synchronization protocol 100) providing for improved accuracy, robustness and flexibility (col. 3 line 44 – col. 4 line 16). Eidson also shows several embodiments (see figures 4-8). For example, figure 6 shows first clock device with a signal generator (see 140 figure 6) having

Art Unit: 2643

plurality of different sub-nets connected thereto (see 120-122 figure 6) and another sub-net having nodes 130-132 connected by using boundary node 142 which acts like another slave clock device in that it synchronizes to traceable time values distributed by the master (146 figure 6). Eidson further discloses the traceable time is provided by a GPS source (col. 2 line 49, col. 7 line 16, col. 8 line 65, col. 10 line 12).

Therefore, it would have been obvious for any one of ordinary skill in the art at the time the invention was made to modify the invention as taught by Masri to use the synchronization protocol as taught by Eidson so latency between a signal originating at a telephony device and the signal as it arrives at another telephony device may be measured or displayed more accurately.

Regarding claim 14. Eidson shows a clock signal in communication with first and second clocking devices such that the first and second clocking devices operate from a substantially similar reference (see figures 1-3 wherein master clock uses traceable source 16 and slave clock uses signal receiver 164 to obtain timing data from the communication link 12 for synchronization of slave time value in the local clock 162 using synchronization protocol 100) providing for improved accuracy, robustness and flexibility (col. 3 line 44 – col. 4 line 16).

Regarding 15. Eidson shows using a satellite (see GPS source--col. 2 line 49, col. 7 line 16, col. 8 line 65, col. 10 line 12).

Regarding claim 16. Eidson shows GPS used as clock source, which reads on stratum source.

Art Unit: 2643

Regarding claim 17-20. Masri shows auto latency test tool used in telephony environment (see telephony devices 102 and 104 located at same location figure 1 or located remotely figures 3-4).

Regarding claim 24. Eidson shows first clock located at first point (see master clock 18 located at master node 14 figure 1). Eidson further shows the first clock (18 figures 1 and 3) having signal generator (see 16 figures 1 and 3) and second clock (see 20-22 figures 1 and 2) having signal receiver (see 164 figure 2) that receives signals from communication link 12. Eidson further shows first and second clocking devices operate from a substantially similar reference (see figures 1-3 wherein master clock uses traceable source 16 and slave clock uses signal receiver 164 to obtain timing data from the communication link 12 for synchronization of slave time value in the local clock 162 using synchronization protocol 100) providing for improved accuracy, robustness and flexibility (col. 3 line 44 – col. 4 line 16). Eidson also shows several embodiments (see figures 4-8). For example, figure 6 shows first clock device with a signal generator (see 140 figure 6) having plurality of different sub-nets connected thereto (see 120-122 figure 6) and another sub-net having nodes 130-132 connected by using boundary node 142 which acts like another slave clock device in that it synchronizes to traceable time values distributed by the master (146 figure 6). Eidson further discloses the traceable time is provided by a GPS source (col. 2 line 49, col. 7 line 16, col. 8 line 65, col. 10 line 12).

Regarding claim 25. Eidson shows second clock located at second point (see slave clock 30-32 located at slave node 20-22 figure 1). Eidson further shows the first clock (18 figures 1 and 3) having signal generator (see 16 figures 1 and 3) and second clock (see 20-22 figures 1 and 2) having signal receiver (see 164 figure 2) that receives signals from communication link 12. Eidson further shows first and second clocking devices operate from a substantially similar reference (see figures 1-3 wherein master clock uses traceable source 16 and slave clock uses signal receiver 164 to obtain timing data from the communication link 12 for synchronization of slave time value in the local clock 162 using synchronization protocol 100) providing for improved accuracy, robustness and flexibility (col. 3 line 44 – col. 4 line 16). Eidson also shows several embodiments (see figures 4-8). For example, figure 6 shows first clock device with a signal generator (see 140 figure 6) having plurality of different sub-nets connected thereto (see 120-122 figure 6) and another sub-net having nodes 130-132 connected by using boundary node 142 which acts like another slave clock device in that it synchronizes to traceable time values distributed by the master (146 figure 6). Eidson further discloses the traceable time is provided by a GPS source (col. 2 line 49, col. 7 line 16, col. 8 line 65, col. 10 line 12).

Method claims 1, 4-12 and 21-23 are rejected for the same reason as apparatus claims 13-20 and 24-25 since the recited elements would perform the claimed method steps.

Art Unit: 2643

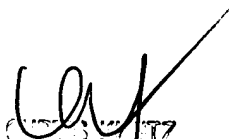
Response to Arguments

2. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barry W. Taylor whose telephone number is (703) 305-4811. The examiner can normally be reached on Monday-Friday from 6:30am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (703) 305-4708. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Technology Center 2600 customer service Office whose telephone number is (703) 306-0377.


CURTIS KUNTZ
EXAMINER
TECH CENTER 2600